IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 19767 of 1993

Between:

1. Madem Hanumanthu S/o. Late Muthaiah,
   resident of Ganugupadu village, Chandrugonda Mandal,
   Khammam District.
2. Chittemsetti Narayana S/o. Late Kotaiah,
   R/o. Pokalagudem Chandrugonda Mandal,
   Khammam District.
3. Podala Venkaiah S/o Late Nagaiah,
   resident of Ganugupadu village, Chandrugonda Mandal,
   Khammam District.
4. Kannamala Venkamma W/o Late Venkaiah,
   resident of Ganugupadu village, Chandrugonda Mandal,
   Khammam District.
5. Malladi Bhadramma W/o Late Satyanarayana,
   resident of Ganugupadu village, Chandrugonda Mandal,
   Khammam District.
6. Kondapalli Seetha Rama Rao S/o Late Satyanarayana,
   resident of Ganugupadu village, Chandrugonda Mandal,
   Khammam District.
7. Kondapalli Ratnakar Rao S/o Late Satyanarayana,
   resident of Ganugupadu village, Chandrugonda Mandal,
   Khammam District.

..... PETITIONERS

AND

1. The District Collector, Khammam.
2. The Mandal Revenue Officer, Chandrugonda, Khammam District.
3. The Executive Engineer, Irrigation Branch (IB) Khammam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction directing the respondents herein to pay the compensation as per the provisions of the Land Acquisition Act for the lands of the Petitioners submerged under Nallacheruvu situated in Gangupadu village,

Chandrugonda Mandal, Khammam District.

Counsel for the Petitioner: MR. R. KAMESWAR RAO

Counsel for the Respondent Nos.1& 2: G.P. FOR REVENUE

Counsel for the Respondent No.3: G.P.FOR IRRIGATION.

The Court made the following:

ORDER:

Heard the learned Counsel for the petitioners and also the learned Government Pleader appearing on behalf of the respondents.

2. The petitioners herein who claims to be the Pattadars and owners of the lands in question, filed this writ petition *inter alia* seeking writ of Mandamus for direction for payment of compensation towards the said land, which has been submerged under Nallacheruvu situated in Gangupudi village, Chandrugonda Mandal, Khamma District.

3. The case of the petitioners is that their lands were submerged during the construction of the said tank in the year 1965-66 by which time, the respondents-authorities have promised to provide alternative land to the petitioners on payment of price and the then Tahsildar, Kothagudem conducted an enquiry into the matter, submitted report to the first respondent-District Collector, and the same was endorsed by the Revenue Divisional Officer, Kothagudem in L.Dis.No.F/4914/63 dated 22-11-1963. Accordingly, the first respondent-District Collector sent a letter dated 13-08-1968 to the Executive Engineer, Warangal and also to Board of Revenue for seeking permission in respect of Bancharai lands. The Tahsildar has sent proposals in Rc.No.A9/704/68 dated 29-05-1968 and there have been subsequent correspondence between the authorities, apart from the various representations filed by the petitioners on 20-06-1977, 16-04-1983 and also a notice dated 26-05-1992. However, the respondents herein have come out with a reply that there is no such file is pending. Hence, the writ petition.

4. In the counter affidavit, the claim of the petitioners that they were promised to pay compensation or to provide alternative land was denied. Further, it is also their case that after long lapse of time, the petitioners cannot agitate the same by way of writ petition in this Court. It was further pointed out that the petitioners themselves gave consent for construction of the tank and, therefore, they are not entitled to any

compensation.

5. Having heard the learned Counsel on either side and also on perusal of the material on record, it is seen that admittedly the tank was constructed in the year 1965-66, whereunder the land belongs to the petitioners were submerged. It is the case of the respondents that the petitioners themselves have given consent and, therefore, the question of payment of compensation or providing alternative land does not arise. Further, even on a reading of the proceedings dated 22-11-1963 of the Revenue Divisional Officer and the proceedings dated 31-12-1963 of the District Collector and also the letter produced by the respondents themselves show that it was agreed to provide the alternative land, subject to payment of prices to be fixed by the Government. Neither any alternative land has been proposed nor compensation has been paid, as to which they are entitled to under Article 300-A of the Constitution of India. Having kept quiet such a long time is totally denying the petitioners' legitimate claim and entitlement and it is not open for the respondents nor to turn out and come out with a plea to deny the same. In the circumstances, I do not find any justification in the action of the respondents herein in not considering the petitioners' case, in either way.

6. The writ petition is accordingly allowed and the respondents are directed to take immediate steps for providing alternative land to the petitioners or pay the compensation towards the lands of the petitioners, which have been submerged, within a period of three from the date of receipt of a copy of this order. No costs.

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B. PRAKASH RAO, J

Dt.09-09-2004

Glv/skmr

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Thursday, the Ninth day of September, Two thousand and four.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

Copies to

1. The District Collector, Khammam.
2. The Mandal Revenue Officer, Chandrugonda, Khammam District.
3. The Executive Engineer, Irrigation Branch (IB) Khammam.

4. Two CCs to the Government Pleader for Revenue, High Court Buildings, Hyderabad. (O.U.T)

5. Two CCs to the Government Pleader for Irrigation, High Court Buildings, Hyderabad. (O.U.T)

6. Two CD Copies.